

AN ACT

relating to the sale by certain alcoholic beverage permit holders of alcoholic beverages at auction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 53, Alcoholic Beverage Code, is amended to read as follows:

CHAPTER 53. TEMPORARY [~~CHARITABLE~~] AUCTION PERMIT

Sec. 53.001. AUTHORIZED ACTIVITIES. The holder of a temporary [~~charitable~~] auction permit may auction alcoholic beverages for consumption off premises to raise money to support the stated purpose [~~charitable works~~] of the permit holder.

Sec. 53.002. FEE. (a) The state fee for a temporary [~~charitable~~] auction permit is \$25.

(b) A local fee may not be charged for the application for or issuance of a temporary [~~charitable~~] auction permit.

(c) The commission may not impose a surcharge for a temporary auction permit.

Sec. 53.003. DURATION OF PERMIT. A temporary [~~charitable~~] auction permit may be issued for a period of not more than five days.

Sec. 53.004. PERMIT. The commission may issue a temporary [~~charitable~~] auction permit only to:

(1) an organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section

1 501(a)) by being listed under Section 501(c)(3), Internal Revenue  
2 Code of 1986 (26 U.S.C. Section 501(c)(3)); or

3 (2) a person or group of persons who are subject to  
4 recordkeeping requirements under Chapter 254, Election Code.

5 Sec. 53.005. AUCTION LOCATION. (a) The holder of a  
6 temporary [~~charitable~~] auction permit may conduct an auction in any  
7 area where the sale of the type of alcoholic beverage to be  
8 auctioned is authorized by a local option election.

9 (b) The holder of a temporary [~~charitable~~] auction permit  
10 may conduct an auction at a premises of another permit or license  
11 holder if:

12 (1) the alcoholic beverages to be auctioned are kept  
13 separate from the alcoholic beverages sold, stored, or served at  
14 the premises; and

15 (2) the alcoholic beverages subject to the auction,  
16 whether sold or unsold, are removed from the premises immediately  
17 following the auction.

18 Sec. 53.006. AUCTION NOTICE. Before an auction is held, the  
19 holder of a temporary [~~charitable~~] auction permit shall provide to  
20 the branch office of the commission located closest to the auction  
21 site written notice of:

22 (1) the date, time, and place of the auction; and

23 (2) the inventory of the alcoholic beverages to be  
24 auctioned.

25 Sec. 53.007. DISPOSITION OF PROCEEDS. The proceeds from an  
26 auction authorized by this chapter shall be deposited to the  
27 account of the holder of a temporary [~~charitable~~] auction permit.

1           Sec. 53.008. PROHIBITED ACTIVITIES.     The holder of a  
2 temporary [~~charitable~~] auction permit may not:

3           (1) auction distilled spirits, wine, ale, or malt  
4 liquor that has not been donated to the organization;

5           (2) auction alcoholic beverages if any taxes are owed  
6 on the beverages; and

7           (3) [~~conduct more than one auction during each~~  
8 ~~calendar year; and~~

9           [~~(4)~~] pay a commission or promotional allowance to a  
10 person to:

11           (A) arrange or conduct an auction under this  
12 chapter; or

13           (B) arrange the donation of alcoholic beverages  
14 to be auctioned by the organization.

15           Sec. 53.009. RULES. (a) The commission shall adopt rules  
16 governing the issuance and use of a temporary [~~charitable~~] auction  
17 permit.

18           (b) The commission shall adopt rules establishing penalties  
19 for the violation of rules adopted under this chapter. A penalty  
20 established by the commission under this subsection may not exceed  
21 a penalty that the commission may impose on the holder of another  
22 temporary license or permit.

23           SECTION 2. Section [151.461](#)(5), Tax Code, is amended to read  
24 as follows:

25           (5) "Retailer" means a person required to hold:

26           (A) a wine and beer retailer's permit under  
27 Chapter [25](#), Alcoholic Beverage Code;

1 (B) a wine and beer retailer's off-premise permit  
2 under Chapter 26, Alcoholic Beverage Code;

3 (C) a temporary wine and beer retailer's permit  
4 or special three-day wine and beer permit under Chapter 27,  
5 Alcoholic Beverage Code;

6 (D) a mixed beverage permit under Chapter 28,  
7 Alcoholic Beverage Code;

8 (E) a daily temporary mixed beverage permit under  
9 Chapter 30, Alcoholic Beverage Code;

10 (F) a private club registration permit under  
11 Chapter 32, Alcoholic Beverage Code;

12 (G) a certificate issued to a fraternal or  
13 veterans organization under Section 32.11, Alcoholic Beverage  
14 Code;

15 (H) a daily temporary private club permit under  
16 Subchapter B, Chapter 33, Alcoholic Beverage Code;

17 (I) a temporary [~~charitable~~] auction permit  
18 under Chapter 53, Alcoholic Beverage Code;

19 (J) a retail dealer's on-premise license under  
20 Chapter 69, Alcoholic Beverage Code;

21 (K) a temporary license under Chapter 72,  
22 Alcoholic Beverage Code; or

23 (L) a retail dealer's off-premise license under  
24 Chapter 71, Alcoholic Beverage Code, except for a dealer who also  
25 holds a package store permit under Chapter 22, Alcoholic Beverage  
26 Code.

27 SECTION 3. This Act takes effect September 1, 2017.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 4042 was passed by the House on April 27, 2017, by the following vote: Yeas 144, Nays 0, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4042 on May 25, 2017, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 4042 was passed by the Senate, with amendments, on May 23, 2017, by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor